



**NEW YORK STATE  
ORNITHOLOGICAL ASSOCIATION, INC.**  
*For the Birders and Birds of the Empire State since 1948*

April 22, 2007

To Whom It May Concern:

I am writing on behalf of our organization the FCC Notice of Proposed Rulemaking on Communication Towers and Birds, WT Docket No. 03-187. Please accept this letter as formal comments on this proposed rulemaking.

The New York State Ornithological Assoc. is the umbrella organization for bird clubs in NY State. In addition to 48 organizational members in NY State, we have nearly 700 individual members. Our organization is involved in documenting the ornithology of NY State, as well as education, conservation and research activities.

The impacts of lighted communications towers on birds is a great concern to us and to our members. Estimates of millions of bird deaths from collisions with these towers make this one of the largest preventable causes of bird mortality in the US.

We urge the FCC to adopt rules as soon as possible to reduce this threat to birds. Allowing significant numbers of protected birds to die in this manner conflicts with existing laws and treaties, including the National Environmental Policy Act the Endangered Species Act, and the Migratory Bird Treaty Act. The FCC has failed its responsibilities in this regard.

The US Fish & Wildlife Service has prepared useful Tower Siting Guidelines that would significantly reduce bird mortality at communications towers. The FCC should require use of these guidelines in tower location, construction and operation.

Specifically, antennas should be co-located to as great a degree as possible, to lessen the number of towers. In addition, the height of towers should be minimized and ideally reduced to less than 200 ft. so that lighting is not required. Any required lighting should be strobe lights, which are less attractive to birds

than steady or slow pulse red lights. The existing steady and slow lights should be phased out as quickly as possible. In addition, guy wires, which are a major threat to birds, should be kept to a minimum. Technology to utilize monopoles exists for towers under 500' and should be mandated...antennas should be co-located on existing structures, and if not, kept under 200' if possible

2) If lighting is required, only white or red strobe lighting should be used – use of steady-burning or slow-pulsing red lights should cease;

3) All existing towers using red steady-burning or slow-pulsing lights should be converted to white or red strobes; and

4) New towers under 500' should not use guy wires unless absolutely necessary

The overwhelming evidence submitted to the FCC documents that the existing 90,000 antenna tower structures cause the death of millions of migratory birds, that these deaths are cumulatively significant for many birds, including Birds of Conservation Concern, and that there are readily available techniques to prevent this killing. The FCC should adopt measures immediately and stop the delays in addressing this pressing environmental issue.

The U.S. Fish and Wildlife Service (USFWS), whose duties under federal law include the protection of migratory birds, concludes that at least 5 million and as many as 50 million birds are killed at FCC registered towers each year, and that population impacts to migratory songbirds are severe and biologically significant. The FCC has peer-reviewed published studies of bird kills at towers, including a 38-year study of a single television tower in west central Wisconsin documenting 121,560 birds killed, representing 123 species, primarily long-distance neotropical migrants. A 29-year study by the Tall Timbers Research station at a Florida TV tower documented the killing of over 44,000 birds of 186 species, 94% of which were neotropical migrants. More than 60 of the species killed at towers are USFWS Birds of Conservation Concern, needing special attention to prevent Endangered Species Act (ESA) listing.

It should be apparent from the studies and comments submitted to the FCC in response to the Notice of Inquiry and this NPRM, that the standard for significance at issue for FCC legal action and compliance is not a scientific standard, but rather a statutory standard under the National Environmental Policy Act (NEPA), and that these bird kills clearly constitute a significant impact to biological resources under NEPA. Thus, the FCC is required to act under NEPA and under the Migratory Bird Treaty Act (MBTA) and the ESA to prevent these significant environmental impacts to birds.

The overwhelming scientific documentation and research that the FCC has received supports changes to tower siting, lighting, and use of guy wires.

Research has shown that these changes can significantly reduce bird kills. Ongoing delay in implementing improvements in tower construction and lighting

will only continue the unacceptable mortality to already declining species. We urge the FCC to act swiftly and strongly in this regard.